

## MINUTES

### ADJOURNED CITY COUNCIL MEETING

**MAY 24, 2004**

An adjourned meeting of the City Council of the City of Rolling Hills Estates was called to order at 7:02 p.m. in the City Council Chambers, 4045 Palos Verdes Drive North, by MAYOR MITCHELL.

#### **PLEDGE OF ALLEGIANCE**

MAYOR MITCHELL led the assembly in the Pledge of Allegiance to the Flag.

#### **ROLL CALL**

City Council Members Present: Addleman, Mitchell, Seamans, Zerunyan, Zuckerman

City Staff Present: City Manager Doug Prichard

Assistant City Manager Sam Wise

City Attorney Richard Terzian

Planning Director David Wahba

Administrative Analyst Greg Grammer

#### **CEREMONIAL ITEMS**

NONE

#### **ROUTINE MATTERS**

##### **A. CITY COUNCIL MINUTES OF MAY 11, 2004**

MAYOR MITCHELL requested a correction on Page 11, Paragraph 2:

*"A. APPOINTMENT OF PARK AND ACTIVITIES COMMISSIONER*

*MAYOR MITCHELL noted that she was unable to attend the interviews, but did speak to both one of the applicants since she already knew the other applicant..."*

COUNCILMAN ZERUNYAN requested a correction on Page 11, Paragraph 10:

*"COUNCILMAN ZERUNYAN expressed his ~~reluctant~~ willingness to take the recommendation of the League and pursue the Governor's proposal further."*

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILWOMAN SEAMANS

TO APPROVE THE CITY COUNCIL MINUTES OF MAY 11, 2004 AS AMENDED.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

B. DEMANDS AND WARRANTS – MONTHS OF MARCH AND APRIL

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILMAN ZUCKERMAN  
TO APPROVE WARRANTS 35477 THROUGH 35537 FOR A GRAND TOTAL  
AMOUNT OF \$208,771.84 WITH PROPER AUDIT.

AYES: Addleman, Mitchell, Seamans, Zerunyan, Zuckerman

**CONSENT CALENDAR**

COUNCILWOMAN SEAMANS moved, seconded by MAYOR PRO TEM ADDLEMAN  
TO APPROVE ITEMS A-D.

A. READING OF ORDINANCES AND RESOLUTIONS

Reading in full of all ordinances and resolutions presented for consideration to the City  
Council will be waived and all such ordinances and resolutions will be read by title only.

RECEIVED AND FILED.

B. APRIL 2004 SCHEDULE OF INVESTMENTS

Recommendation: That the City Council receive and file the Schedule of Investments Report for  
the month of April 2004.

RECEIVED AND FILED.

C. LEAGUE OF CALIFORNIA CITIES PRIORITY FOCUS DATED MAY 7, 2004

RECEIVED AND FILED.

D. LEAGUE OF CALIFORNIA CITIES PRIORITY FOCUS DATED MAY 14, 2004

RECEIVED AND FILED.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

**AUDIENCE ITEMS NOT ON THE AGENDA/WRITTEN AND ORAL  
COMMUNICATIONS**

NONE

**NEW BUSINESS** *(Taken out of order)*

A. PLANNING COMMISSION MINUTES OF MAY 17, 2004

*WILL BE AVAILABLE AT THE NEXT MEETING.*

B. PARK AND ACTIVITIES MINUTES OF MAY 18, 2004

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILMAN ZERUNYAN

TO RECEIVE AND FILE THE PARK AND ACTIVITIES COMMISSION MINUTES OF MAY 18, 2004.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

**PUBLIC HEARINGS/MEETINGS**

A. PLANNING APPLICATION NO. PA-29-01; APPLICANT: ROLLING HILLS COVENANT CHURCH (RHCC); LOCATION: 2221 AND 2222 PALOS VERDES DRIVE NORTH

Recommendation: That the City Council: 1) Open the public hearing; 2) Take public testimony; 3) Discuss the issues; 4) Close the public hearing; and 5) Direct staff to prepare the appropriate resolutions either upholding or rejecting the Planning Commission's recommendation to: a) Certify the Project EIR; and b) Deny PA-29-01.

MAYOR MITCHELL thanked all representatives of the proponents and opponents for participating in the mediation process even though an agreement was not reached. She commended them for entering into discussions in an attempt to resolve this project.

MAYOR MITCHELL then explained how the meeting will be conducted. She noted that the COUNCIL will allow a total of two hours of public testimony with the proponents addressing the COUNCIL first and opponents second. She cautioned the audience to be respectful and not to make personal attacks or interrupt any speaker. She noted that once the public hearing is closed and COUNCIL discussion commences, no additional public input will be accepted.

Planning Director Wahba provided a staff report (as per agenda material).

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILMAN ZUCKERMAN

TO OPEN THE PUBLIC HEARING.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

Vergil Best, Applicant, thanked the COUNCIL for serving the community for many years as well as for their patience, particularly MAYOR MITCHELL and COUNCILMAN ZUCKERMAN. He noted their disappointment that an agreement had not been reached, but commended them for their efforts.

Mr. Best continued stating that since the COUNCIL is very familiar with the project, they would refrain from making a presentation and requested that a vote be taken. Additionally, he thanked their supporters for attending the meeting reiterating his belief that this is a good project worthy of being approved. He noted that a letter was sent to the COUNCIL the same day as the meeting which withdrew the requested zone change on the MWD parcel as it was their belief this was not required by the code and would help the COUNCIL render a favorable decision.

Craig Knickerbocker, 30 Hidden Valley, thanked the COUNCIL for all the years they have served and noted his appreciation for their assistance. He believed the mediation process took place in good faith with valuable input from all interested parties. He noted his experience with other projects approved throughout the state as well as out of state and believed the COUNCIL could approve this project with conditions if desired. He thanked everyone involved and urged a yes vote.

Craig Huey, President, Peninsula Residents for a Better Community, urged COUNCIL approval of the expansion. He noted that 85% of his organization's membership are not members of the Church and that the opponents were not looking at the larger picture. He also thanked MAYOR MITCHELL and COUNCILMAN ZUCKERMAN for their personal time spent on these discussions as well.

John Chon, Alliance Defense Fund, noted he was appearing on behalf of Robert Tyler who was unable to attend. He reminded the COUNCIL that RLIUPA was enacted to protect religious organizations from discrimination. He encouraged compliance with RLIUPA noting that they will defend the Applicant's interests if requested.

Bridget Carman, 2225 Carriage Drive, RHE Neighborhood Coalition, addressed the COUNCIL. She noted she was speaking on behalf of the Larga Vista Homeowners' Association as a board member, along with Tim Scott, President, Montecillo Homeowners' Association and Mike Russo, President, Bridlewood Circle Homeowners' Association on behalf of the RHE Neighborhood Coalition. She referred to other residents involved which included Bob Bennett, Kirk Retz, Sararuth Grimes, and Christina Zimmerman. She then provided an extensive history of the proposed expansion noting that past concerns expressed by the neighborhood are still relevant today. She went on to state that even though this is a complex project, the community and COUNCIL has reviewed this project in detail. Additionally, she noted that any decision to approve this project would be challenged as the parking does not meet the requirements for the south campus.

Mike Russo, President, Bridlewood Homeowners' Associations, 9 Bridlewood Circle, RHE Coalition, thanked the COUNCIL for all their hard work and especially appreciated the opportunity to participate in the mediation. He also thanked Mr. Best for the role he played believing there was more common ground than reasons for division on this application. He noted that the primary concern is traffic.

Mr. Russo read remarks provided by a City resident regarding the consequences if approval was granted. He concurred with Ms. Carman as the project does not fit the site and believed the COUNCIL will make the right decision.

Tim Scott, President, Montecillo Homeowners' Association, indicated that he wished to be fair to the Applicant, but that they are overreaching on what is needed in the community. He listed several examples which included childcare, multi-purpose facility, parking, traffic, land use, etc. He noted that prior promises have not been honored by the Applicant. Additionally, he stated many reasons to reject this application as it does not make sense if the EIR is deficient under CEQA and strongly urged the COUNCIL to reject the EIR and application.

Camilo Garcia, 10 Seaview Drive North, insisted the COUNCIL vote as the Applicant and City have spent an extensive amount of time and money on this project. He commented that the opponents were not acting in the best interest of the City as no health or safety issues were mentioned and that the Applicant has scaled down the plans He referred to other projects in the commercial district believing that there was a double standard in expeditiously moving them along. He noted that if the Applicant decides to litigate, it would be disastrous for the City, but felt confident the COUNCIL would act wisely on this matter.

Peter Harris, Attorney for the Applicant, reminded the COUNCIL to be aware that he had met with the MWD this year to discuss the lease for the 15,000 square foot strip and that it had been approved. He noted that public land may be leased to a church or any other tenant as long as the

conditions are met.

Ingrid Neet, also thanked the COUNCIL and took issue with the last two speakers. She noted that this is not a small project as the footprint of the building is the same and that the Applicant never adhered to its promises. She stressed that this was not a freedom of religion issue as this church has been in the same location for many years. She acknowledged that the COUNCIL has a difficult job and encouraged denial of this project.

John Sheperd, concurred with the aforementioned remarks and thanked the COUNCIL and Applicant for participating in a reasonable and respectful fashion.

John Maselter, 31 Montecillo Drive, reiterated that the Applicant should keep their promise never to expand. He noted his opinion that RLIUPA has been declared unconstitutional under federal law in a case that is now on appeal. Additionally, he commented on his concern with how litigation will affect the City should the Applicant decide to file suit and strongly urged the COUNCIL not to consider approval under RLIUPA in their discussions.

Robert Weinman, stated that religion is not the issue as has been raised in previous meetings and requested the COUNCIL to ignore those remarks and only concentrate on the scale of the project.

Warren Schwarzmman, 4 Aurora Drive, stated that he was a former Council Member for many years and it was clear that the size of the structure and number of individuals utilizing this facility was a concern as it did not adequately address parking. He believed the COUNCIL does not have all the information needed to approve this project and recommended denial.

Stacy Potrzuski, addressed the COUNCIL offering her opinion that this project is not for the City itself, but rather the Church as the buildings have accommodated extensive growth throughout the years. She commented that this is more of an outreach to the greater Los Angeles area, not to benefit the immediate community. Additionally, she stated that residents live in the City for its lifestyle and did not wish to bring in more congestion and pollution.

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILMAN ZUCKERMAN  
TO CLOSE THE PUBLIC HEARING.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

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At 8:31 p.m., MAYOR MITCHELL called for a brief recess.

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At 8:39 p.m., the CITY COUNCIL reconvened with MAYOR MITCHELL, MAYOR PRO TEM ADDLEMAN, COUNCILWOMAN SEAMANS, COUNCILMAN ZERUNYAN and COUNCILMAN ZUCKERMAN present.

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COUNCILMAN ZERUNYAN commended both the opponents and proponents for being fair in expressing their views. He then inquired as to the letter that had been delivered by the Applicant regarding elimination of a variance and zone change.

Planning Director Wahba noted that the application before the COUNCIL has not changed despite the Applicant's opinion on the necessity for a variance.

COUNCILMAN ZERUNYAN commented that if aggregation of various parcels was allowed, it would set a poor policy precedent for the City. Planning Director Wahba noted that the application as proposed assumes an assemblage of parcels that, in total, essentially meet the development standards. However, if one parcel were removed, it would have a negative effect on the ability of the project to meet the development standards.

COUNCILWOMAN SEAMANS noted that, while the Applicant is asking to have the MWD property rezoned, it should not be considered a complete parcel.

COUNCILMAN ZERUNYAN inquired as to the last time Planning Director Wahba brought a request for zone change before the COUNCIL. Planning Director Wahba indicated it was for the Vantage Pointe development which is a residential development.

COUNCILMAN ZERUNYAN then inquired if there had ever been a zone change from open space to institutional. Planning Director Wahba noted he was not aware of any such action stating that in the early 90s all institutional properties were under the designation of residential with an institutional overlay zone. He noted that a City-initiated project in 1991 removed these overlay zones at that time.

Planning Director Wahba noted that, with the exception of perhaps Peninsula High School, there is no building as large as the proposed project within an institutional zone in the City.

COUNCILMAN ZUCKERMAN noted that if the Applicant's property was rezoned to institutional, there remains a residential parcel which would be entirely surrounded by institutional property and that this may be detrimental to the residential property owner.

COUNCILWOMAN SEAMANS commented that the letter received from the Applicant was confusing as to whether or not this project can move forward without rezoning.

City Attorney Terzian noted that the City does not concur with the Applicant's interpretation of the ordinance.

MAYOR MITCHELL noted that the plans in front of the COUNCIL show the sanctuary actually crosses the Applicant's property line extending to the MWD property as does the parking structure and questioned if this would be a violation of the ordinance as well as the General Plan.

Planning Director Wahba noted that when this application came before the City, it was assumed that the MWD property was zoned institutional, but was later determined to be open space.

COUNCILMAN ZUCKERMAN inquired if Planning Director Wahba had reviewed the new lease the Applicant entered into with MWD. Planning Director Wahba responded that he had not, but noted the lease would not go into effect until the COUNCIL makes a final decision.

COUNCILMAN ZERUNYAN commented that he had previously seen this application as he served on the Planning Commission and was very familiar with this case. He expressed his view that the City needs to consider a number of policy decisions and doubted the wisdom of approving a zone change as proposed referring to the following excerpt from the City's website: *"Welcome to the City of Rolling Hills Estates.....in order to preserve the unique rural-*

*residential and equestrian environment.....*" He noted that because Palos Verdes Drive North was designated a scenic corridor, a change in policy would be troublesome and concurred that this issue is problematic as it is important to evaluate the value of this project as a whole in the EIR. Additionally, he expressed his concern in having an applicant pick and choose which structures, or lack thereof, to comply with or circumvent development standards and this would be unacceptable.

MAYOR MITCHELL referred to the General Plan in regards to the open space element in terms of policies and goals which are highly valued in the community. She referred to the MWD property which has hiking trails, etc., and stated her belief that once open space is rezoned, it may never be returned to its present state.

MAYOR PRO TEM ADDLEMAN questioned if policy issues such as rezoning public land for private purposes via a lease agreement should be allowed; whether an applicant should be allowed to extend structures beyond the property line; and whether an application could combine non-contiguous parcels.

MAYOR MITCHELL noted that the application included structures being built across property lines on property owned by MWD and wondered what would happen if the MWD should decide to terminate that lease. She believed that the City does not want to ignore the setback requirements of the Municipal Code in order to allow construction to take place. Additionally, she commented that only two setbacks are met in the proposed application, and in that sense, the application would be deemed unacceptable.

COUNCILMAN ZUCKERMAN noted that this is more of a procedural planning issue with respect to boundary lines, ownership of properties and zoning designations. He noted that the Applicant could come back with another application addressing the COUNCIL'S concerns.

MAYOR MITCHELL also questioned if consolidation of non-contiguous properties would comply with development standards.

COUNCILWOMAN SEAMANS concurred with the aforementioned comments stating that the policy issues are clear regarding leasing public property for private use. She noted that the City has attempted to accommodate the Applicant with parking on both sides of Palos Verdes Drive North. She explained that she did not see this plan until it was presented to the COUNCIL. The Applicant was commended on bargaining in good faith in working with the City and surrounding residents, but unfortunately, she noted, an amicable solution was not possible. She concurred with upholding the Planning Commission's denial of this application.

COUNCILMAN ZUCKERMAN noted his opinion to maintain the open space feature as it is on public property. He stated that imposing conditions may be insufficient to meet lot coverage requirements.

MAYOR MITCHELL noted she had no strong reservations about leasing public land for private purposes, but did not concur with changing zoning of public property from open space to an institutional designation.

COUNCILMAN ZUCKERMAN noted that the General Plan encourages residential uses and that rezoning any residential and open space to institutional was inappropriate.

MAYOR MITCHELL commented that other projects are pending in the commercial district which the City is looking at individually and collectively and made it clear that the COUNCIL

does not favor one project over another.

In regards to a speaker's prior comments, MAYOR MITCHELL spoke on behalf of the COUNCIL stating that they do not subscribe to the position that a church should be limited to serving one community, but rather that such an institution may encompass a larger population.

City Attorney Terzian noted that, while the COUNCIL has many concerns, their decision will be based on evidence presented at the various public hearings, such as traffic, neighborhood compatibility, etc. He noted that their action on the application presented to the COUNCIL would be either to approve or deny the project and staff would prepare a set of findings addressing the issues raised by the COUNCIL and based on the record.

COUNCILMAN ZERUNYAN noted that the COUNCIL should focus on the more fundamental issues and that those decisions as reflected in the findings for this project, should ensure the integrity of the City's General Plan and Zoning Code for future generations.

COUNCILWOMAN SEAMANS moved, seconded by COUNCILMAN ZUCKERMAN

TO DIRECT STAFF TO PREPARE THE APPROPRIATE RESOLUTION UPHOLDING THE PLANNING COMMISSION'S DECISION DENYING PLANNING APPLICATION NO. PA-29-01 AND INCLUDE FINDINGS FOR THE NON-CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT.

AYES: Addleman, Mitchell, Seamans, Zerunyan, Zuckerman

MAYOR MITCHELL commended everyone for their commitment in showing how the democratic process works.

### **OLD BUSINESS**

NONE

### **CITY ATTORNEY ITEMS**

NONE

**CITY COUNCIL/REGIONAL COMMITTEE REPORTS:** This item provides the opportunity for Members of the City Council to provide information and reports to other Members of the City Council and/or the public on any issues or activities of currently active Council Committees, ad hoc committees, regional or state-wide governmental associations, special districts and/or joint powers authorities and their various committees on which Members of the City Council might serve or have an interest, which are not otherwise agendized.

NONE

**MAYOR AND COUNCIL ITEMS:** This item provides the opportunity for Members of the City Council to request information on currently pending projects and/or issues of public concern, direct that an item be agendized for future consideration and/or make announcements of interest to the public.

NONE

### **CLOSED SESSION**



NONE SCHEDULED

**ADJOURNMENT**

At 9:46 p.m., MAYOR MITCHELL formally adjourned the City Council meeting to Tuesday, June 1, 2004 for the purpose of conducting the Budget Study Session at 6:00 p.m.

Submitted by, Approved by,

Hope J. Nolan Douglas R. Prichard

Deputy City Clerk City Clerk